

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

MAYFORD KENNETH DAVIS, JR.,  
PLAINTIFF,

V.

COUNTY OF DALLAS, ET AL.  
DEFENDANTS.

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CASE NO. 3:19-CV-1494-B

ORDER ACCEPTING THE FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE

United States Magistrate Judge Renée Harris Toliver made findings, conclusions and a recommendation in this case. Objections were filed, Doc. 43, and the Court has made a de novo review of those portions of the proposed findings, conclusions and recommendation to which objection was made. The Court finds Plaintiff's latest attempts at service, Docs. 37-41, are insufficient.

For example, Docs. 39-41 show that Plaintiff attempted service by certified mail via a notary public. However such service is insufficient. Under Texas law, only authorized persons can serve process by certified mail. TEX. R. CIV. P. 103. And, a notary public is not an authorized person under Texas law. *Dunlap v. City of Fort Worth*, No. 4:13-CV-802-O, 2014 WL 1677680, at \*3 n.2 (N.D. Tex. Apr. 28, 2014) (citing cases holding that the sheriff, constable, and clerk of court may serve process by certified or registered mail).


Plaintiff's attempted service via certified mail is also deficient because such service must be restricted to addressee only. *Delta S.S. Lines, Inc. v. Albano*, 768 F.2d 728, 730 (5th Cir. 1985) (citing TEX. R. CIV. P. 106). The documents filed by Plaintiff, however, show the certified mail receipt was signed by persons other than the Defendants to whom the mail matters were addressed. See Doc. 39

at 2, 5, 13 (received by “Mary” on 2/6/2020, line B); Doc. 39 at 10 (received by “Castro”); Doc. 40 at 2 (received by “Lee Worley”); Doc. 40 at 6 (received by “Gary D. Cantrell”); Doc. 41 at 2 (received by “Veronica Ramos”).

Plaintiff’s remaining attempts at service, Docs. 37-38, are also insufficient. Plaintiff’s Certificate of Service for Doc. 37 only includes a USPS notification that the item was returned to the sender (Plaintiff) because “the addressee was not known at the delivery address noted on the package.” Doc. 37 at 2. Plaintiff’s Certificate of Service for Doc. 38 similarly states “Summons for Catherine Esterada-Carraso has to be reissued and served because the Postal Service has lost it in [sic] the returning to the sender.” Doc. 38 at 1.

Accordingly, Plaintiff’s objections in his *Demand to Unfile the Findings and Recommendations*, Doc. 43, are **OVERRULED**, and the Court accepts the Findings, Conclusions and Recommendation of the United States Magistrate Judge. Plaintiff’s case is **DISMISSED WITHOUT PREJUDICE**.

**SO ORDERED** this 13<sup>th</sup> day of March, 2020.

  
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JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE